MT LEGISLATIVE HISTORY

Chapter 555 1987

Bill (H) 718 S _____ Original bill & hist. ✓C

H. Committee on Natural Resources		S. Committee on Natural Resources	
Hearing Date(s) FEB 16	✓C	Hearing Date(s) MAR 20	✓C
FEB 18	✓C	MAR 23	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out FEB 18	✓C	MAR 23	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 718

INTRODUCED BY HARPER, DONALDSON, CONNELLY, RANEY, SQUIRES, ECK, ADDY, HANNAH, VINCENT, IVERSON, STRIZICH, C. SMITH, JONES, COHEN, HARP, BACHINI, BRANDEWIE, REAM, GLASER, SPAETH, THOFT, BRADLEY, CORNE', ASAY

IN THE HOUSE

FEBRUARY 12, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 18, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 19, 1987	PRINTING REPORT.
FEBRUARY 20, 1987	SECOND READING, DO PASS.
FEBRUARY 21, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 82; NOES, 10.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 23, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
MARCH 24, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 28, 1987	SECOND READING, CONCURRED IN.
MARCH 30, 1987	THIRD READING, CONCURRED IN. AYES, 45; NOES, 5.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 9, 1987	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

House BILL NO. 718

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REALLOCATING FUNDS FROM THE ENVIRONMENTAL CONTINGENCY ACCOUNT TO THE ENVIRONMENTAL QUALITY PROTECTION FUND; SPECIFYING USES OF THE ENVIRONMENTAL QUALITY PROTECTION FUND; AMENDING SECTIONS 75-1-1101, 75-1-1102, 75-10-704, AND 75-10-715, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-1-1101, MCA, is amended to read:

"75-1-1101. Environmental ~~contingency------account~~ objectives quality protection fund allocation. (1) ~~There is created an environmental contingency account within the state special revenue fund established in 17-2-102. The environmental contingency account is controlled by the governor.~~

~~(2)~~ Except as provided in subsection ~~(5)~~ (3), at the beginning of each fiscal year, ~~5%~~ 4% of the total funds ~~appropriated to the department of natural resources and conservation~~ from the resource indemnity trust interest account~~, not to exceed $175,000 in fiscal year 1987,~~ must be allocated to the environmental ~~contingency account~~ quality protection fund provided for in 75-10-704.

~~(3)~~(2) Funds are statutorily appropriated, as provided in 17-7-502, ~~from the environmental contingency account upon the authorization of the governor to meet unanticipated public needs consistent with the following objectives:~~

~~(a) to support water development projects in communities that face an emergency or imminent need for such services or to prevent the physical failure of a water project;~~

~~(b) to preserve vegetation, water, soil, fish, wildlife, or other renewable resources from an imminent physical threat or during an emergency, not including:~~

~~(i) natural disasters adequately covered by other funding sources; or~~

~~(ii) fire;~~

~~(c) to respond to an emergency or imminent threat to persons, property, or the environment caused by mineral development; and~~

~~(d) to fund the environmental quality protection fund provided for in 75-10-704 or to take other necessary actions, including the construction of facilities, to respond to actual or potential threats to persons, property, or the environment caused by hazardous wastes or other hazardous materials~~ quality protection fund to the department of health and environmental sciences to be used for remedial action upon release of a hazardous substance as

INTRODUCED BILL
HB-718

provided for in Title 75, chapter 10, part 7.

~~(4)~~(3) The environmental ~~contingency--account~~ quality protection fund may receive no additional allocation for any fiscal year in which the balance in the account exceeds $1,000,000 at the beginning of that fiscal year.

~~(5)~~(4) Interest from funds in the environmental ~~contingency--account~~ quality protection fund accrues to the resource indemnity trust interest account.

~~(6)~~(5) The ~~governor~~ department of health and environmental sciences shall submit to the legislature at the beginning of each regular session a complete financial report on the environmental ~~contingency--account~~ quality protection fund, including a description of all expenditures made since the preceding report."

Section 2. Section 75-1-1102, MCA, is amended to read:

"75-1-1102. Grant program special revenue account created -- revenues -- allocation -- limitations on appropriations. (1) There is created a grant program special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the grant program special revenue account all money allocated for appropriation from the resource indemnity trust interest account set forth in Title 15, chapter 38, with the exception of those allocations made in 15-38-202 and 75-1-1101.

(3) Appropriations may be made from the grant program special revenue account for the following purposes:

(a) grants for designated projects and activities; and

(b) administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grant program. These expenses may be funded prior to funding of projects."

Section 3. Section 75-10-704, MCA, is amended to read:

"75-10-704. Environmental quality protection fund. (1) There is created in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) The fund may be used to carry out the provisions of this part and for remedial actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances~~:~~ as follows:

(a) One-half of the funds deposited, up to a limit of $200,000, must be reserved for use in emergency actions pursuant to 75-10-712. As these funds are expended, the emergency action reserve must be built up to $200,000 through dedication of funds recovered by the department pursuant to any action taken under 75-10-715.

(b) Funds not reserved for emergency action must be used to conduct a program of remedial action at sites:

(i) where a release has occurred; and

(ii) where the U.S. environmental protection agency has, under the provisions of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, conducted a hazard ranking study and judged the site not eligible for inclusion on the national priority list or where the U.S. environmental protection agency has no authority or no plan to assess the site under CERCLA.

(3) The department's program for remedial action under subsection (2)(b) must include:

(a) a system for prioritizing sites for remedial action based on potential effects on human health and the environment; and

(b) investigation, negotiation, and legal action, as appropriate, to identify responsible parties, to obtain the participation and financial contribution of responsible parties for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

~~(3)~~(4) There must be deposited in the fund:

(a) all penalties, damages, and department expenditures recovered pursuant to 75-10-715;

(b) funds appropriated to the fund by the legislature;

and

(c) funds received from the ~~environmental contingency account within the state special revenue fund established~~ resource indemnity trust interest account pursuant to 75-1-1101.

~~(4) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account within the state special revenue fund established pursuant to 75-1-1101.~~"

Section 4. Section 75-10-715, MCA, is amended to read:

"75-10-715. Reimbursement and penalties -- proceedings -- defenses. (1) Subject only to the defenses set forth in subsection (4), a party responsible for a release is liable for:

(a) all costs of remedial action taken by the department pursuant to this part; and

(b) damages for injury to, destruction of, or loss of natural resources caused by the release or threatened release.

(2) If the responsible party fails, without sufficient cause, to properly provide remedial action upon notification by the department pursuant to 75-10-711(3)(b), the responsible party may be liable for punitive damages in an amount not to exceed two times the amount of any costs

incurred by the department pursuant to this section.

(3) The department may initiate civil proceedings in district court to recover costs, damages, or penalties under subsections (1) and (2). Venue for any action to recover costs, damages, or penalties lies in the county where the release occurred or where the responsible party resides or has its principal place of business or in the district court of the first judicial district.

(4) No party is liable under subsection (1) or (2) if that party can establish by a preponderance of the evidence that:

(a) the department failed to follow the notice provisions of 75-10-711 when required; or

(b) the release did not emanate from any vessel, vehicle, or facility over which the party had any authority or control and was not caused by any action or omission of the party; or

(c) in the case of assessment of punitive damages, that factors beyond the control of the responsible party prevented the party from taking timely remedial action.

~~(5)--(a)-Costs-of-remedial-action-recovered-pursuant-to subsection-(1)(a)-must-be-deposited-in-the-fund.~~

~~(b)--Damages---and---penalties--recovered--pursuant--to subsections--(1)(b)--and--(2)--must--be--deposited--in---the environmental--contingency--account-within-the-state-special~~

~~revenue-fund-established-pursuant-to-75-1-1101.~~"

NEW SECTION. Section 5. Extension of authority. Any existing authority of the department of health and environmental sciences to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 6. Effective date. This act is effective July 1, 1987.

-End-

STATUS SHEET

50th LEGISLATIVE SESSION

NATURAL RESOURCES COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
718	2/16/87	2/16/87	2/18/87	2/18/87							
729	2/16/87	2/16/87	2/18/87			2/18/87					
746	2/18/87	2/18/87	2/20/87			2/20/87					
750	2/18/87	2/18/87	2/18/87			2/18/87					
760	2/18/87	2/18/87	2/18/87	2/18/87							
770	2/18/87	2/18/87	2/20/87	tabled							
775	2/18/87	2/18/87	2/18/87	tabled							
777	2/18/87	2/18/87	2/18/87	2/18/87							
781	3/6/87	3/6/87	3/9/87	tabled							
795	3/4/87	3/4/87	3/11/87			3/11/87					
812	2/20/87	2/20/87	2/20/87	tabled							
830	2/20/87	2/20/87	2/20/87	tabled							
831	2/20/87	2/20/87	2/20/87		2/20/87						
845	Failed to meet transimittal.										

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

He pointed out to the committee, that in the majority of cases, when WWPA does come out with their index, this will reflect a rise in the price of timber, and would then present a problem for the loggers. The way the present system works, the logger is the one who is penalized for these adjustments in the cost of timber.

HEARING CLOSED ON HB 677.

HOUSE BILL NO. 718: REP. HAL HARPER, District #71, stated the committee is well aware of the Superfund Act that the National Government is undertaking at the federal level. He stated we have set aside money for such an effort, and we have tried to anticipate such an effort as setting up the laws that are bing omitted in HB 718. He stated, the fact of the matter is, the money just hasn't been used and the effort that we've made is just not coming through. So, what HB 718 does, is attempt to set up the workable ongoing minifund system in the State, to try to identify sites that need to be dealt with before the groundwater is irreversibly contaminated and to try to get some jobs in the State and provide some cleanup. He stated last session, they passed the law regarding the Environmental Contingency Account and it was controlled by the Governor and funded by 5% of the RIT interest. The objectives were to respond to emergencies of water and other natural resources and to fund the response to a release of hazardous substances. Again, this fund really hasn't been used, and under this law, will set up an environmental quality protection fund and money would be transferred to this fund, for the purposes already outlined. He emphasized the need in the State is great, and the Department, who is here, of course, with no position on the bill, has a list of the sites that may be able to be addressed under this bill. He called the committee's attention to these sites and this will again emphasize the need in Montana.

PROPONENTS: GEORGE OCHENSKI representing the Montana Environmental Information Center submitted the list of these sites as mentioned by Rep. Harper. (Exhibit 3). He stated as you recall last session, every representative had one of these sites in their district. He stated the program they set up, did not work, because the money simply did not get appropriated from the Environmental Contingency Account. He emphasized that this bill simply clarifies it, and in fact, we have one separate account for emergencies and anything over that, we must begin to address our problems. This is all the bill does, is clarify how we are going to take care of these problems that are scattered across the State. He urged favorable consideration for HB 718.

SANDY MERDINGER representing the League of Women Voters stated they support this bill and urged the committee's favorable recommendation.

NO OPPONENTS

NO QUESTIONS FROM THE COMMITTEE

In closing, Rep. Harper stated the committee was well aware of this bill, and the need there is for this program in the State of Montana. He urged their favorable recommendation in the passage of HB 718.

HEARING CLOSED ON HB 718.

HOUSE BILL NO. 645: REP. DAVE BROWN, District #72, sponsor, stated Rep. Ellison and himself started out on a task of trying to find a solution amongst a number of problems that arose in the administering of the Hard Rock Mining Act, which is the primary reason for this bill. He stated HB 645 does three things, those being on page 6, lines 14-17, the intent of the Hard Rock Mining Act is that the state should stay out of the operation of the act, and that it should be limited to discussion between the local governing units and the developer, unless they couldn't agree, and if they couldn't agree, then through the objection process, it goes to the Hard Rock Mining Board for resolution of the impact plan that's developed in that area. There has been some departure of this practice and thus, brings this bill here. What this provision does, is that the mineral developer and effective local governing units will make the decisions as to what's in that impact plan and the Hard Rock Board does stay out of it, unless there is an objection to the plan, or down the road, there is an amendment to the act or to the plan, which requires the Hard Rock Board to bring it back into their advisory. He stated all other changes in the bill, occuring in different sections, are all made to be consistent with this change in statute as seen in HB 645. The second thing the bill does, is address the original declaration of necessity and purpose in the act. He stated industry has brought it to their attention, that the original statements of necessity and purpose basically assume that there will be a substantial impact and a large influx prior to the impact act making that determination. So, all agreed to change the language to say that it may cause an influx of people directly related to the area but it may create a burden on the local taxpayer, and that is why we have a Hard Rock Impact Act. The impact plan will tell us whether indeed, it does or not. Rep. Brown stated he did have an updated Statement of Intent for the bill, and submitted this to the committee (Exhibit 4). He urged the committee's support of the bill.

DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb 16, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	X		
CLYDE SMITH, VICE CHAIRMAN	X		
KELLY ADDY	X		
TOM ASAY	X		
JOHN COBB	X		
BEN COHEN	X		
ED GRADY	X		
JOHN HARP	X		
HAL HARPER	X		
MIKE KADAS	X		
AL MEYERS	X		
JOAN MILES	X		
MARY LOU PETERSON	X		
BOB RANEY	X		
RANDE ROTH	X		
ANGELA RUSSELL	X		
BRUCE SIMON	X		
BILL STRIZICH	X		
STAFF: EQC HUGH ZACKHEIM			

...ío. ...ow, 4-none, 5-RCRA
Type: M-mining, P-petroleum, D-penta/creosote dipper, O-other, I-industrial

EXHIBIT 3
DATE 2-16-87
HB 718

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
1	ACM Butte Operations, Butte	01	M				86	86
1	Anaconda Smelter, Anaconda	30	M	82	82		82	83
1	BNRR Somers Tie Plant, Somers	07	D	84	84		84	
1	Comet Oil, Billings	03	P	84	85	87	86	87
1	East Helena Site	05	M	81	83		83	83
1	Idaho Pole Co., Bozeman	06	D	84	84	86	84	86
1	Libby Groundwater Contamination, Libby	56	D	80	81		82	83
1	Milltown Reservoir Sediments, Missoula	04	M	82	82		82	83
1	Montana Pole & Treating Plant, Butte	01	D	84	85		86	87
1	Mouat Ind., Columbus	32	M	79	84		86	
1	Silver Bow Creek, Butte	01	M	83	79		82	83
1	St. Regis Paper, Libby (see Libby GW cont.)	56	D	84				
2	ACM Gt. Falls Refinery, Black Eagle	02	M	82			82	
2	Apex Mill, Bannack	18	M	83	84		84	
2	Arro Oil Refinery, Lewistown	08	P	84	84		85	
2	Bass Creek Post & Pole, Stevensville	13	D	87	88			
2	Beaver Wood Products, Columbia Falls	07	D	86	87			
2	Big Hole Post Plant, Dillon	18	D	87	87			
2	Big Horn Oil & Refining, Billings	03	P	86	87			
2	Big West ...il, Kevin	21	P	84	87			
2	Bitterroot Valley Landfill, Victor	13	L	85	87			
2	Central Pasland Treating Plant, Lewistown	08	D	87	88			
2	Coffman Lumber and Treatment Co., Billings	03	D	87	88			
2	Conrad Refining Co., Conrad	26	P	87	88			
2	Creston Post & Pole Yard, Kalispell	07	D	86	87			
2	Diamond Asphalt, Chinook	24	P	84	86		86	
2	Falls Chemical, Inc., Great Falls	02	O	84	86	86		
2	Hart Refineries, Missoula	04	P	85	85	86	87	
2	Havre Refinery	12	P	87	87			
2	J & N Post & Pole, Evar...	04	D	87	88			
2	Jet Fuel Refinery, Mosley	50	P	86	88			
2	Kalispell Pole & Timber, Kalispell	07	D	85	87			
2	Kenison Pole Plant, Townsend	43	D	87	87			
2	Lake Co. Weed District, Ronan	15	O	85	85	87		
2	Larry's Post & Treating Co., Columbia Falls	07	D	87	88			
2	Laurel Oil & Refining Co., Butte	01	P	87	87			
2	Marble Creek Post Yard, Superior	54	D	87	87			

...-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System, ...PL-National Priority List

Type.

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
2	Mercer Post Plant, Bozeman	06	D	87	87			
2	Midwest Refining Co., Conrad	26	P	87	87			
2	Milwaukee Roundhouse, Deer Lodge	28	P	87	87			
2	Mission Wye, Livingston	49	P	84	84	86	87	
2	North American Oil Ref., Kalispell	07	P	86	87			
2	Reliance Refining Co., Kalispell	07	P	86	86	86	87	
2	Russell Oil Co., Billings	03	P	86	88			
2	Russell Oil Co., Butte	01	P	86	88			
2	S & W Sawmill Inc., Darby	13	D	87	88			
2	Strongs Post Yard, Livingston	49	D	87	88			
2	Tale Creek Gas Plant/Crystal Oil, Poplar	17	P	86	87			
2	Treasure State Refining Co., Shelby	21	P	86	88			
2	Turner Post Treatment Co., Whitefish	07	D	87	88			
2	Weowna Oil Refinery, Winnett	55	P	86	88			
2	Yale Oil Corp., Kalispell	07	P	85	86	86	87	
2	Yale Oil of South Dakota, Billings	03	P	87	88			
3	Anaconda Aluminum, Col. Falls	07	M	84				
3	Asarco Inc. Troy Unit, Troy	56	M	84	88			
3	Billings Sanitary Landfill	03	L	84	88			
3	BN Derailment Site, Bainville	17	O	84				
3	BN Derailment Site, E. Bridger	10	O	84				
3	BN Derailment Site, Evaro	04	O	84				
3	BN Derailment Site, Garrison	28	O	85				
3	BN Derailment Site, Missoula	04	O	85				
3	BN Krezelak Pond, Havre	12	O	84	84	87		
3	BN Racetrack Pond, Havre	12	O	81				
3	Borden Inc., Missoula	04	O	84				
3	Bozeman Old City Landfill	06	L	83	83			
3	Carter Oil Refinery, Cut Bank	38	P	84	85			
3	Charles M. Russell Refuge, Turkey Joe Landing	08	O	86	86			
3	Chevron USA Inc., Browning	38	P	84				
3	Continental Oil Co., Lewistown	08	P	85				
3	Cooke City Arsenic Tailings	49	M	80				
3	Empire Sand and Gravel, Bozeman	03	O	84	84			
3	General Elec. Co., Billings	03	I	84				
3	Golden Messnger Mine, York	05	M	86				
3	Goldsel Mining Co., Marysville	05	M	86	87			

PA-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System, NPL-National Priority List

Priority: 1-high, 2-medium, 3-low, 4-none, 5-RCRA
Type: M-mining, P-petroleum, D-penta/creosote dipper, O-other, I-industrial

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
	Helena Landfill	05	L	85				
	High Ore Mine, Basin	51	M	86				
	Hirschy Corrals, Jackson	18	O	84	84			
	Ideal Basic Ind., Three Forks	06	I	85				
	Jardine Arsenic Tailings, Jardine	49	M	80				
	Kaiser Cement, Montana City	51	I	85				
	Lohoff Gravel Pit, Billings	03	P	83	83	86		
	Malta Airport, Malta	11	O	85	85			
	McCulloch Purchase Station, Fairview	27	O	85				
	Miles City Livestock Center	14	O	84	86			
	Miles City Rail Yard	14	P	85	86	87		
	Milwaukee Road Right of Way, St. Regis	54	O	85				
	Missoula Landfill	04	L	84				
	Montana Power Co.-Frank Bird, Billings	03	O	84				
	Montana Power Co.-JE Corette, Billings	03	O	84				
	Montana Radiation, Anaconda	30	O	84				
	Montana State Chem Lab, Helena	05	O	84				
	Montana Sulphur & Chem, Billings	03	O	86				
	Motherlode Gold & Silver, East Helena	05	M	85	85	87		
	Philipsburg Mining	46	M	80				
	Plum Creek Evergreen, Kalispell	07	O	80				
	Poisoned Oats Disposal, Browning	38	O	85	88			
	Prairie View Recreational Park, Billings	03	O	86	88			
	Real Log Homes Mfg. Site, Missoula	04	O	85				
	Refinery Sumps, Billings	03	P	80	88			
	Rocky Mountain Phosphate, Garrison	28	M	80			82	
	Scott Feed Lot, Billings	03	O	84	86			
	Stauffer Chemical Co., Ramsey	01	M	84				
	Summit-Dana Ind., Bozeman	06	O	84				
	Texaco-Sunburst Works, Sunburst	21	P	84	85		87	
	Thompson Falls Reservoir, Thompson Falls	35	M	86	86			
	U.S. Antimony Corp., Thompson Falls	35	M	84	88			
	Union Oil-Cut Bank Ref., Cut Bank	38	P	84	85			
	Valley Garden Vat, Ennis	25	O	84	86			
	Western By-Products, Great Falls	02	O	84	84	85		
	Asbestos Mine (Karst), Bozeman	06	M	84				
	BN Inc. Prop., Billings	03	O	84				

A-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System, NPL-National Priority List

Type: M-mining, P-petroleum, D-penta/creosote dipper, O-other, I-industrial

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
4	Developmental Technology, Bozeman	06	O	84				
4	Ermont Mill-Mill Tailings, Argenta (Fed.)	18	M					
4	Sluice Gulch Leaking Mine, Philipsburg (Fed.)	46	M					
4	Thorium City Waste Dump, Grant (Fed.)	18	M					
4	Tungsten Mill-Mill Tailings, Glen (Fed.)	25	M					
5	Conoco Billings Refinery	03	P					
5	Conoco Landfarm, Billings	03	P					
5	Exxon Refinery, Billings	03	P	80				
5	Farmers Union/Cenex, Laurel	03	P					
5	Great Falls Refinery	02	P	79				
5	Malmstrom Air Force Base, Great Falls	02	O					
5	Paradise Tie Treatment, Paradise	35	D	80				
5	Union Tank Car Co., Laurel	03	I	84				
5	Wolf Point Refinery	17	P					

PA-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System, NPL-National Priority List

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 18, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on February 18, 1987, at 12:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present.

EXECUTIVE SESSION

The committee began the meeting by starting with Executive Action before hearings began at 12:30 p.m.

HOUSE BILL NO. 718: Rep. Kadas moved HB 718 DO PASS. Question was then called, the motion CARRIED unanimously.

HOUSE BILL NO. 677: Rep. Smith moved HB 677 DO NOT PASS. Rep. Kadas made a substitute motion to TABLE HB 677. Question being called, the motion CARRIED unanimously.

HOUSE BILL NO. 729: Rep. Kadas moved HB 729 DO PASS. Rep. Roth stated he would like to have the amendments considered in two groups, those being No.2 and No.10 together, because these deal with the effective date. The remaining amendments change the word "hearing" to "meeting", and he does not think these amendments are necessary. He then moved the No.2 and No.10 amendments DO PASS.

DISCUSSION

Rep. Addy spoke against the amendments stating he feels this is one of those bills that's here because they have a problem now, and when those people are not satisfied with those procedures, they feel they should have been entitled to, and he doesn't know if the problem is as severe as it seemed to be by the people in the neighborhood, but by not giving them the option, you just leave it all up to whatever their imaginations can conjure up.

REP. SIMON spoke in favor of the motion, stating he's attended these meetings, and a number of people were there, and he felt the issue was very carefully explained to them, and we do have a problem that people see we are passing this material, and immediately conjure up some very frightening things, and he felt that the hearing was very fair, lasting about three hours with informational exchange back and forth. He feels it's certainly the spirit of this

DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb 16, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	X		
CLYDE SMITH, VICE CHAIRMAN	X		
KELLY ADDY	X		
TOM ASAY	X		
JOHN COBB	X		
BEN COHEN	X		
ED GRADY	X		
JOHN HARP	X		
HAL HARPER	X		
MIKE KADAS	X		
AL MEYERS	X		
JOAN MILES	X		
MARY LOU PETERSON	X		
BOB RANEY	X		
RANDE ROTH	X		
ANGELA RUSSELL	X		
BRUCE SIMON	X		
BILL STRIZICH	X		
STAFF: EQC HUGH ZACKHEIM			

STANDING COMMITTEE REPORT

FEBRUARY 17 19 87

Mr. Speaker: We, the committee on NATURAL RESOURCES

report HB 718

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. TOM JONES Chairman

FIRST reading copy (WHITE color)

FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) NATURAL RESOURCES

CHAIRMAN--SEN. TOM KEATING
NORMAL SCHEDULE==> SITE: ROOM 405 DAYS: M-W-F TIME: 1:00 P.M.

SECRETARY-NADINE MCCURDY

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0404	2/16	3/11		CONCUR		3/11
HARP, JOHN			PROVIDES A TIME LIMIT FOR CENTERLINE DECISIONS			
HB0408	2/10	3/09		CONCUR		3/9
IVERSON, DENNIS			PROVIDES THAT RESERVED WATER MUST BE USED IN THE BASIN OF DIVERSION			
HB0453	2/16	3/20		CONCUR		
BRANDEWIE, RAY		3/25	AUTHORIZES DEPT OF COMMERCE TO REPRESENT TOURISM IN FLATHEAD LAKE MANAGEMENT			3/25
HB0467	2/17	3/18		CONCUR		3/18
REAM, BOB			AMENDING HAZARDOUS WASTE ACT TO INCORPORATE CHANGES IN FEDERAL LAW			
HB0534	2/16	3/13		CONCUR		3/18
HANNAH, TOM		3/18 4/25	REVISING AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE			
HB0629	2/19	3/23		ADVERSE REPORT		3/25
REAM, BOB		3/25	GENERALLY REVISES THE METAL MINE RECLAMATION LAWS			
HB0642	3/02	3/23		CONCUR AS AMENDED		
SPAETH, GARY		3/25	REVISES WATER PERMIT LAWS; QUALIFIES MISSOURI BASIN WATER RESERVATIONS			3/25
HB0645	3/02	3/09		CONCUR		
BROWN, DAVE		3/16	CLARIFIES IMPACT PLAN SECTION OF HARD-ROCK MINING IMPACT ACT			3/16
HB0651	2/19	3/18		CONCUR		3/18
JENKINS, LOREN			APPROP. RIGHT REDUCTION ASSOCIATED WITH LAND SET ASIDE IS NOT ABANDONMENT			
HB0661	2/23	3/23		CONCUR AS AMENDED		3/25
SPAETH, GARY		3/25	REDEFINE "PROJECT" TO CLARIFY DOES NOT INCLUDE DIVERSION FOR IRRIGATION			
HB0718	2/23	3/20		CONCUR AS AMENDED		
HARPER, HAL		3/23	REALLOCATING ENVIRONMENTAL CONTINGENCY ACCT. TO ENV. QUALITY PROTECTION FUND			3/23

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 20, 1987

The meeting of the Senate Natural Resources Committee was called to order by Chairman Thomas F. Keating on March 20, 1987, at 12:30 p.m. in Room 405 of the State Capitol.

ROLL CALL: All members were present with the exception of Senators Tveit and Lynch who were excused.

CONSIDERATION OF HB 718: Rep. Hal Harper, House District 44, introduced HB 718 which reallocates funds from the environmental contingency account to the environmental quality protection fund and specifies uses of the fund, to clean up hazardous waste sites. The bill dealt with RIT, and Rep. Harper said it's a tax on mineral production borne mostly by oil money that has gone mostly to agency budgets rather than original purposes. HB 718 will give Department of Health specific objectives what to do with the money. There is a site in every county, and Rep. Harper distributed list of sites. (Exhibit 1) Sites will be cleaned up on a priority basis. The bill was drafted to coordinate with the Governor's Bill last time, and Sen. Blaylock's bill this legislature. Rep. Harper distributed some proposed amendments. (Exhibit 2) With the amendments, HB 718 no longer will address the emergency account issue. HB 718 will go into effect in 1990 as an on-going program to continue mini-Superfund.

PROPONENTS: George Ochenski, Environmental Information Center stated that last session HB 766 was passed and the money that was appropriated had not been used. The special session reappropriated the money, but HB 718 gives specific instruction of how the money will be used--it will merely clean up smaller sites that don't make the federal Superfund. Mr. Ochenski said there was no opposition in the House and he urged the committee to support the bill.

Jeanne-Marie Souvigney testified that HB 718 is an appropriate use of the RIT money for sites that would not otherwise be cleaned up.

OPPONENTS: None.

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: In Reply to Sen. Keating's question, Rep. Harper asked the committee to read over the amendments. Sen. Keating then asked the source of the idea, and Rep. Harper said it was Rep. Ream's bill during the 1985 session that set up a mini-Superfund Program.

There were conflicting statements and confusing and complicated discussion about RIT allocations and coordination between SB 373 and HBs 718 and 777. At that point, Larry Fasbender (DNRC) arrved at the meeting, and the Chairman asked him for an explanation. Mr. Fasbender's testimony follows:

Last Legislative Session when we were working on the legacy program, we put a percentage in there that would be 5% of the money of the RIT account that would go into the environmental quality contingency account. At the time that was done, it was anticipated that would be 5% of the projects that were authorized which amounted to $200,000 going into that account. Since the legacy bill died, language was eventually inserted into HB 922 that said 5% of the money appropriated to DNRC would go into this emergency account, which raised the amount of money that was available to about $450,000. The contention is made because of language that is and was in the statutes then that the money is to be used to set up a program to address non-CERCLA type sites. The Executive Branch (Administration) disagrees with that, but the case in point became moot in that when Legislature came into special session in June, they reduced the amount of money that was in that account from $450,000 to $175,000. At that time a decision was made by the Departments of Health and Administration (Governor's Office) that $175,000 would be used strictly for emergency purposes. As such, no money was made available to hire anyone to begin assessing programs and to specifically look at non-CERCLA sites. There was not enough money or authorization to do that. We have put into the environmental contingency account $175,000 from last biennium, approximately $30,000 of that may go to fixing a well at Cut Bank and $20,000 will be used to replace that. Therefore, there will be about $165,000 in that account at the end of this biennium.

At the beginning of the next biennium, another $175,000 will go into that account. It will continue to build if SB 373 passes as is until the account reaches $750,000. What is being attempted in HB 718 is to change the scenerio, restricting the emergency portion of the contingency account to not exceed $200,000 at any time. If it were to go into effect this year, that 4% would generate $558,000. $200,000 of that would come out and be available for emergency purposes and the other $358,000 would be available for non-CERCLA type sites, and fund people and a program to make assessments, to prioritize and make recommendations on sites that should be dealt with. At the present time in HB 6 (RIT Legislation), there is $1,170,000 that addresses

non-CERCLA type sites. The Administration is of the opinion because there are about 150 sites that are going to need to be addressed probably through the RIT Program, that they develop an on-going capability to do that--determine responsibility, prioritize them, find out exactly what is to be done, and then make recommendations to Legislature each time as to what should be funded as far as the sites are concerned. We do not agree with legislation that 4% of RIT should be set aside to do that. The argument can be made 4% is going to be allocated for certain type sites and argument can be made to restrict the amount of money that is available for those sites even below what is authorized in this session. DNRC has agreed to work out a program whereby money that is allocated this time (instead of doing it with strictly contract work) that we would hire people to go through the process of dealing with identification of abandoned oil refineries, of attempting to identify and make recommendations of how those sites should be mitigated by using the RIT funds this time, with the understanding that this is the two-year program.

Next Legislature we would have to justify the continuation of the program. In effect, what you are getting by accepting HB 718 is earmarking funds for continuing programs. The Administration has consistently gone on record as opposing earmarked revenues, and we don't think this is a particularly good idea to expand it. In some instances we have compromised that and there is some earmarked funding in RIT. There was a great deal of debate of whether that should be continued. That is a policy decision that legislators have to make. We support the idea of putting people in place on a continuing basis for the next two years to take a look at these sites, but we do not support the idea of earmarking 4% of RIT for it.

NOTE: Mr. Fasbender had no chance to read the amendments that were presented before his testimony.

CLOSING: Rep. Harper said that the point Mr. Fasbender made was a good one--any one project could eat up the whole 4%. Rep. Harper said the bill should be further amended to say "at least 4%, but not less than 4%. He reiterated that at least 4% is necessary. This is an earmarked fund that will directly benefit Montana citizens.

ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date March 2

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman	✓		
Sen. Cecil Weeding, Vice Chairman	✓		
Sen. John Anderson	✓		
Sen. Mike Halligan	✓		
Sen. Delwyn Gage	✓		
Sen. Lawrence Stimatz	✓		
Sen. Larry Tveit			✓
Sen. "J.D." Lynch			✓
Sen. Sam Hofman	✓		
Sen. William Yellowtail	✓		
Sen. Elmer Severson	✓		
Sen. Mike Walker			

Each day attach to minutes.

DATE 2-20-87

COMMITTEE ON Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Vic ANDERSEN	DHES - SHWB	HB718	X	
GEORGE OCHENSKI	MT. ENV. INF CNTR	746 718	X	
STEVE Pilcher	DHES - WQB	746	X	
Wm M Gilkey	R/E Broker	746		X
Steve Huntington	Commerce	453		
Joann Marie Swingley	MT Sierra Club MT League of Women Voters	718	X	
Rob Brown	NPRC	718	X	
Don Allen	MT. Wood Products Assn.	HJ24	X	
Ray Lybeck	Senate Dist #4	HJR24	X	
Robert Holmes				
Mary A Fanning	Mt. Mining Assn.	HJR24	X	

Priority: 1-high, 2-medium, 3-low, 4-none, 5-RCRA
Type: M-mining, P-petroleum, D-penta/creosote dipper, O-other, I-industrial

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 3/20/87
BILL NO. HB718

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
1	ACM Butte Operations, Butte	01	M				86	86
1	Anaconda Smelter, Anaconda	30	M	82	82		82	83
1	BNRR Somers Tie Plant, Somers	07	D	84	84		84	
1	Comet Oil, Billings	03	P	84	85	87	86	87
1	East Helena Site	05	M	81	83		83	83
1	Idaho Pole Co., Bozeman	06	D	84	84	86	84	86
1	Libby Groundwater Contamination, Libby	56	D	80	81		82	83
1	Milltown Reservoir Sediments, Missoula	04	M	82	82		82	83
1	Montana Pole & Treating Plant, Butte	01	D	84	85		86	87
1	Mouat Ind., Columbus	32	M	79	84		86	
1	Silver Bow Creek, Butte	01	M	83	79		82	83
1	St. Regis Paper, Libby (see Libby GW cont.)	56	D	84				
2	ACM Gt. Falls Refinery, Black Eagle	02	M	82			82	
2	Apex Mill, Bannack	18	M	83	84		84	
2	Arro Oil Refinery, Lewistown	08	P	84	84		85	
2	Bass Creek Post & Pole, Stevensville	13	D	87	88			
2	Beaver Wood Products, Columbia Falls	07	D	86	87			
2	Big Hole Post Plant, Dillon	18	D	87	87			
2	Big Horn Oil & Refining, Billings	03	P	86	87			
2	Big West Oil, Kevin	21	P	84	87			
2	Bitterroot Valley Landfill, Victor	13	L	85	87			
2	Central Pasland Treating Plant, Lewistown	08	D	87	88			
2	Coffman Lumber and Treatment Co., Billings	03	D	87	88			
2	Conrad Refining Co., Conrad	26	P	87	88			
2	Creston Post & Pole Yard, Kalispell	07	D	86	87			
2	Diamond Asphalt, Chinook	24	P	84	86		86	
2	Falls Chemical, Inc., Great Falls	02	O	84	86	86		
2	Hart Refineries, Missoula	04	P	85	85	86	87	
2	Havre Refinery	12	P	87	87			
2	J & N Post & Pole, Evaro	04	D	87	88			
2	Jet Fuel Refinery, Mosley	50	P	86	88			
2	Kalispell Pole & Timber, Kalispell	07	D	85	87			
2	Kenison Pole Plant, Townsend	43	D	87	87			
2	Lake Co. Weed District, Ronan	15	O	85	85	87		
2	Larry's Post & Treating Co., Columbia Falls	07	D	87	88			
2	Laurel Oil & Refining Co., Butte	01	P	87	87			
2	Marble Creek Post Yard, Superior	54	D	87	87			

PA-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System, NPL-National Priority List

Priority: 1-high, 2-medium, 3-low, 4-none, 5-RCRA
Type: M-mining, P-petroleum, D-penta/creosote dipper, O-other, I-industrial

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
2	Mercer Post Plant, Bozeman	06	D	87	87			
2	Midwest Refining Co., Conrad	26	P	87	87			
2	Milwaukee Roundhouse, Deer Lodge	28	P	87	87			
2	Mission Wye, Livingston	49	P	84	84	86	87	
2	North American Oil Ref., Kalispell	07	P	86	87			
2	Reliance Refining Co., Kalispell	07	P	86	86	86	87	
2	Russell Oil Co., Billings	03	P	86	88			
2	Russell Oil Co., Butte	01	P	86	88			
2	S & W Sawmill Inc., Darby	13	D	87	88			
2	Strongs Post Yard, Livingston	49	D	87	88			
2	Tale Creek Gas Plant/Crystal Oil, Poplar	17	P	86	87			
2	Treasure State Refining Co., Shelby	21	P	86	88			
2	Turner Post Treatment Co., Whitefish	07	D	87	88			
2	Weowna Oil Refinery, Winnett	55	P	86	88			
2	Yale Oil Corp., Kalispell	07	P	85	86	86	87	
2	Yale Oil of South Dakota, Billings	03	P	87	88			
3	Anaconda Aluminum, Col. Falls	07	M	84				
3	Asarco Inc. Troy Unit, Troy	56	M	84	88			
3	Billings Sanitary Landfill	03	L	84	88			
3	BN Derailment Site, Bainville	17	O	84				
3	BN Derailment Site, E. Bridger	10	O	84				
3	BN Derailment Site, Evaro	04	O	84				
3	BN Derailment Site, Garrison	28	O	85				
3	BN Derailment Site, Missoula	04	O	85				
3	BN Krezelak Pond, Havre	12	O	84	84	87		
3	BN Racetrack Pond, Havre	12	O	81				
3	Borden Inc., Missoula	04	O	84				
3	Bozeman Old City Landfill	06	L	83	83			
3	Carter Oil Refinery, Cut Bank	38	P	84	85			
3	Charles M. Russell Refuge, Turkey Joe Landing	08	O	86	86			
3	Chevron USA Inc., Browning	38	P	84				
3	Continental Oil Co., Lewistown	08	P	85				
3	Cooke City Arsenic Tailings	49	M	80				
3	Empire Sand and Gravel, Bozeman	03	O	84	84			
3	General Elec. Co., Billings	03	I	84				
3	Golden Messnger Mine, York	05	M	86				
3	Goldsel Mining Co., Marysville	05	M	86	87			

PA-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System, NPL-National Priority List

SENATE NATURAL RESOURCES
EXHIBIT NO. 1 (p.2)
DATE 3/20/87
BILL NO. HB 718

Priority: 1-high, 2-medium, 3-low, 4-none, 5-RCRA
Type: M-mining, P-petroleum, D-penta/creosote dipper, O-other, I-industrial

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
3	Helena Landfill	05	L	85				
3	High Ore Mine, Basin	51	M	86				
3	Hirschy Corrals, Jackson	18	O	84	84			
3	Ideal Basic Ind., Three Forks	06	I	85				
3	Jardine Arsenic Tailings, Jardine	49	M	80				
3	Kaiser Cement, Montana City	51	I	85				
3	Lohoff Gravel Pit, Billings	03	P	83	83	86		
3	Malta Airport, Malta	11	O	85	85			
3	McCulloch Purchase Station, Fairview	27	O	85				
3	Miles City Livestock Center	14	O	84	86			
3	Miles City Rail Yard	14	P	85	86	87		
3	Milwaukee Road Right of Way, St. Regis	54	O	85				
3	Missoula Landfill	04	L	84				
3	Montana Power Co.-Frank Bird, Billings	03	O	84				
3	Montana Power Co.-JE Corette, Billings	03	O	84				
3	Montana Radiation, Anaconda	30	O	84				
3	Montana State Chem Lab, Helena	05	O	84				
3	Montana Sulphur & Chem, Billings	03	O	86				
3	Motherlode Gold & Silver, East Helena	05	M	85	85	87		
3	Philipsburg Mining	46	M	80				
3	Plum Creek Evergreen, Kalispell	07	O	80				
3	Poisoned Oats Disposal, Browning	38	O	85	88			
3	Prairie View Recreational Park, Billings	03	O	86	88			
3	Real Log Homes Mfg. Site, Missoula	04	O	85				
3	Refinery Sumps, Billings	03	P	80	88			
3	Rocky Mountain Phosphate, Garrison	28	M	80			82	
3	Scott Feed Lot, Billings	03	Q	84	86			
3	Stauffer Chemical Co., Ramsey	01	M	84				
3	Summit-Dana Ind., Bozeman	06	O	84				
3	Texaco-Sunburst Works, Sunburst	21	P	84	85		87	
3	Thompson Falls Reservoir, Thompson Falls	35	M	86	86			
3	U.S. Antimony Corp., Thompson Falls	35	M	84	88			
3	Union Oil-Cut Bank Ref., Cut Bank	38	P	84	85			
3	Valley Garden Vat, Ennis	25	O	84	86			
3	Western By-Products, Great Falls	02	O	84	84	85		
4	Asbestos Mine (Karst), Bozeman	06	M	84				
4	BN Inc. Prop., Billings	03	O	84				

PA-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System, NPL-National Priority List

SENATE NATURAL RESOURCES
EXHIBIT NO. 1 (p.3)
DATE 3/20/87
BILL NO. HB 718

Priority: 1-high, 2-medium, 3-low, 4-none, 5-RCRA
Type: M-mining, P-petroleum, D-penta/creosote dipper, O-other, I-industrial

PRIORITY	SITE	COUNTY	TYPE	PA	SI	SIF	HRS	NPL
4	Developmental Technology, Bozeman	06	O	84				
4	Ermont Mill-Mill Tailings, Argenta (Fed.)	18	M					
4	Sluice Gulch Leaking Mine, Philipsburg (Fed.)	46	M					
4	Thorium City Waste Dump, Grant (Fed.)	18	M					
4	Tungsten Mill-Mill Tailings, Glen (Fed.)	25	M					
5	Conoco Billings Refinery	03	P					
5	Conoco Landfarm, Billings	03	P					
5	Exxon Refinery, Billings	03	P	80				
5	Farmers Union/Cenex, Laurel	03	P					
5	Great Falls Refinery	02	P	79				
5	Malmstrom Air Force Base, Great Falls	02	O					
5	Paradise Tie Treatment, Paradise	35	D	80				
5	Union Tank Car Co., Laurel	03	I	84				
5	Wolf Point Refinery	17	P					

SENATE NATURAL RESOURCES
EXHIBIT NO. 1 (p.7)
DATE 3/20/87
BILL NO. HB718

PA-Preliminary Assessment, SI-Site Investigation, SIF-Site Investigation Follow-up, HRS-Hazardous Ranking System
NPL-National Priority List

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 3/20/87
BILL NO. HB 718

Amendments to House Bill 718
Representative Harper
Senate Natural Resources Committee
March 20, 1987

1. Title, line 4.
Strike: "REALLOCATING"
Insert: "ALLOCATING"

2. Title, line 5.
Strike: "ENVIRONMENTAL CONTINGENCY ACCOUNT"
Insert: "INTEREST INCOME OF THE RESOURCE INDEMNITY TRUST FUND"

3. Title, line 8.
Strike: "75-1-1101, 75-1-1102"
Insert: "15-38-202"

4. Page 1, line 12, through line 8 on page 4.
Strike: sections 1 and 2 in their entirety
Insert:

" Section 1. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All moneys paid into the resource indemnity trust fund shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund shall annually be added thereto until it has reached the sum of $10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches $100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legislature and expended, provided that the balance in the fund may never be less than $100 million.

(2) Beginning in fiscal year 1982, provided the amount in the resource indemnity trust fund is greater than $10 million, 30% of the interest income of the resource indemnity trust fund must be allocated to the water development state special revenue account created by 85-1-604.

(3) Beginning in fiscal year 1986, 6% of the interest income of the resource indemnity trust fund must be allocated to the department of health and environmental sciences to be used to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in accordance with Title 75, chapter 10, part 6. The allocation in this subsection must be appropriated for each full biennium as necessary to obtain matching federal funds for the biennium.

(4) Beginning in fiscal year 1990, 4% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund, provided for in 75-10-704.""

Renumber: subsequent sections

SENATE NATURAL RESOURCES
EXHIBIT NO. 2 (p 2)
DATE 3/20/87
BILL NO. HB 718

5. Page 4, line 16.
Following: "may"
Insert: "only"

6. Page 4, line 19 through line 2 on page 5.
Strike: "." on page 4, line 19 through "conduct" on line 2, page 5
Insert: ". Fund uses must include the conduct of the hazardous waste site remedial action program, which is"

7. Page 5, line 3.
Strike: "(i)"
Insert: "(a)"

✓ 8. Page 5, line 4.
Strike: "(ii)"
Insert: "(b)"

✓9. Page 5, line 13.
Strike: "(2)(b)"
Insert: "(2)"

10. Page 6.
Following: line 3
Insert: "interest income of the"

11. Page 6, line 4.
Strike: "interest account"
Insert: "fund"

12. Page 6, line 5.
Strike: "75-1-1101"
Insert: "15-38-202"

13. Page 6, line 10.
Following: "~~75-1-1101.~~"
Insert: "(5) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101."

14. Page 8.
Following: line 6
Insert:

" NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 373, including the section of that bill amending 15-38-202, is passed and approved, section 18 of Senate Bill No. 373 must read:

"NEW SECTION. Section 18. Coordination instruction. ~~If House Bill No. 777, including the section of that bill amending 15-38-202, is passed and approved:~~

~~(1) the bracketed material in section 12(2)(d) of this act allocating funds to the reclamation and development grants account must read "50%"; and~~

~~(2) the bracketed material in section 6 is void.~~

(1) If House Bill No. 777, including the section of that bill amending 15-38-202, is passed and approved, and if House Bill No. 718, including the section of that bill amending 15-38-202, is passed and approved, the bracketed material in section 12 must read "46%".

(2) If House Bill No. 777, including the section of that bill amending 15-38-202, is passed and approved, and if House Bill No. 718, including the section amending 15-38-202, is not passed and approved, the bracketed material in section 12 must read "50%".

(3) If House Bill No. 777, including the section amending 15-38-202 is not passed and approved, and if House Bill No. 718, including the section amending 15-38-202, is passed and approved, the bracketed material in section 12 must read "52%"."

SENATE NATURAL RESOURCES
EXHIBIT NO. 2 (p.3)
DATE 3/22/07
BILL NO. HB 718

ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date March 23, 1987

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman	✓		
Sen. Cecil Weeding, Vice Chairman	✓		
Sen. John Anderson	✓		
Sen. Mike Halligan	✓		
Sen. Delwyn Gage	✓		X
Sen. Lawrence Stimatz	✓		
Sen. Larry Tveit	✓		
Sen. "J.D." Lynch	✓		
Sen. Sam Hofman	✓		
Sen. William Yellowtail	✓		
Sen. Elmer Severson	✓		
Sen. Mike Walker	✓		

Each day attach to minutes.

DISPOSITION OF HOUSE BILL 718: Sen. Keating explained that HB 718 would reallocate environmental contingency account to the Environmental Quality Protection Fund for hazardous waste, etc. Gail Kuntz passed out an explanation sheet that was prepared by Hugh Zackheim at the request of the sponsor, Rep. Harper. (Exhibit 1)

George Ochenski,EIC, explained that HB 718 would provide a new earmarking of the RIT interest.

Sen. Lynch moved the amendments that were presented to the committee by Rep. Harper on March 20. Motion CARRIED unanimously.

Sen. Halligan moved that HB 718 AS AMENDED BE CONCURRED IN. Motion CARRIED unanimously.

CONSIDERATION OF HOUSE BILL 777: Rep. Ream, House District 54,introduced HB 777 as being a companion bill to HB 760. He said that HB 777 was a bill that would address the Superfund program, which allows for investigation and if need be, cleanup of substances that have been allowed to escape into the environment. Rep. Ream said that those responsible for the problem should help pay for the cleanup. He also stated that HB 777 does change the RIT interest income from 6% to 12% which was part of the Governor's package. It also establishes the Hazardous Waste/CERCLA Account. EPA provides 90% of the funding for remedial action sites and the State provides 10%. Rep. Ream asked a representative from DHES to explain more fully HB 777.

PROPONENTS: Katherine Orr, Attorney for DHES, distributed detailed handouts to the committee. Ms. Orr stated that HB 777 would put in place a funding mechanism for the hazardous waste program. HB 777 also allows for bonds to be sold if DHES deems it necessary. (Exhibit 2)

Stan Bradshaw, Trout Unlimited, supported HB 777.

Vic Anderson, Department of Health and Environmental Sciences, testified that HB 777 would provide the basis for the State to deal from a position of strength.

Don Engles, Montana Chamber of Commerce, entered support of HB 777.

George Ochenski,EIC, stated full support of HB 777 because without the bill, cleanups cannot be accomplished.

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 3-23-87
BILL NO. HB718

HOUSE BILL 718

Purpose:

To establish an ongoing program to cleanup hazardous waste sites in Montana.

Need:

There are approximately 100 hazardous waste sites in Montana that will not qualify for the federal Superfund program. These sites will only be cleaned up if the state takes the initiative.

Legal Framework:

HB 766, enacted in 1985, authorizes the health department to take remedial action whenever a release of a hazardous substance threatens public health or the environment. The law established a revolving fund (the Environmental Quality Protection Fund or "mini-Superfund") that DHES can use to respond to releases or cleanup waste sites if responsible parties fail to act; responsible parties are then liable to reimburse the fund for costs and damages. HOWEVER, THE LEGISLATURE DID NOT APPROPRIATE ANY MONEY TO THIS FUND, SO DHES HAS NOT SET UP THE NECESSARY PROGRAM TO ADDRESS HAZARDOUS WASTE SITES. HB 718 would provide the necessary allocation to get such a program going.

Relation to RIT Use:

HB 718, with the proposed amendments, does not affect RIT allocations for the 1988-89 biennium. The 4% allocation under HB 718 will not begin until FY90, just like the allocations provided for in SB 373.

HB 718 is highly consistent with the use of the RIT to address the impacts of mineral development. As indicated on the list of state sites, the majority of hazardous waste are mineral related.

Initiation of HB 718 Program:

Through an agreement with the Schwinden Administration, the health department will use $60,000 from its hazardous waste budget and about $40,000 from an RIT project grant (dealing with abandoned refineries) to hire a program manager to begin to address Montana's hazardous waste sites. During the upcoming biennium, the program manager will coordinate DHES work on the refinery cleanups and the Apex mill cleanup; prioritize other sites for future action; and identify, contact and work with potentially responsible parties to have these parties begin necessary studies and remedial action at hazardous waste sites. As a result of this work, DHES will be in an excellent position to come before the 1989 Legislature with a program of how it proposes to spend the newly allocated 4% of the RIT interest.

(Note: The 4% allocation to DHES under HB 718 is <u>not</u> a statutory appropriation, as was indicated at the hearing.)

SENATE NATURAL RESOURCES
EXHIBIT NO. 2 p. 2
DATE 3-23-87
BILL NO. HB 718

Earmarking:

HB 718 does provide a new earmarking of the RIT interest. The Schwinden Administration has stated its opposition to additional earmarking (although the administration has proposed the additional 6% allocation for Superfund participation in HB 777 and has not proposed to remove the existing earmarking for the water development program).

The earmarking provided for in HB 718 is necessary to provide a predictable funding source (about one-half million dollars per biennium) so the state can address hazardous waste sites in a programmatic way. Without this predictable source of funds, it would be extremely difficult to have the continuity needed for ongoing cleanup projects or negotiations with responsible parties. Also, the predictable fund source is crucial so that responsible parties will know that the state can take action. This provides a great incentive for responsible parties to undertake cleanup -- if they do not, the state will conduct the cleanup and the responsible parties are liable for double damages. This approach is exactly the theory behind the federal Superfund program. Without earmarking, the program suffers from a lack of continuity and responsible parties might delay cleanup action and hope that the next Legislature will not find funds for DHES to pursue work at a site.

Options:

If the committee opposes the new 4% earmarking in HB 718, there are two options that should be considered before killing HB 718.

(1) The committee could increase the existing earmarking for the hazardous waste management program, and include the state waste site program within this fund. The current allocation is 6%, and with HB 777 this will jump to 12%. Coordinating HB 718 with this format would be possible, resulting in a total hazardous waste allocation of 16%.

(2) The committee could approve the program elements of HB 718 without the earmarking. This would at least put in place a statutory program to address hazardous waste sites by using the substantial authority provided for through HB 766 in 1985. The Administration has committed to pursuing this program, and specific projects could be funded through future RIT grants.

Summary:

Approval of HB 718 with the proposed amendments would put Montana in a position to develop and undertake a long-term program that will result in the cleanup of abandoned hazardous waste sites across the state, allow the state to recover costs from responsible parties, and put people to work in this effort.

SENATE NATURAL RESOURCES
EXHIBIT NO. 1 p.3
DATE 3-23-87
BILL NO. HB 718

RIT ALLOCATIONS

PROGRAM	CURRENT LAW	SB 373	SB 373 & HB 777	SB 373, HB 777 & HB 718
Water Development Program	30%	30%	30%	30%
Hazardous Waste Mgmt. (RCRA, UST, CERCLA)[1]	6%	6%	12%	12%
Unspecified	64%	-	-	-
Reclamation and Development Grants	-	56%*	50%*	46%*
Renewable Resource Development Program	-[2]	8%*	8%*	8%*
Hazardous Waste Site Remedial Action Prgm.	-	-	-	4%*
Gov.'s Environmental Contingency Account (off-the-top alloc.)	5%	$175,000	$175,000	$175,000[3]

NOTES:

* These allocations will begin in FY 90.

1. RCRA, UST, CERCLA -- These are the major on-going programs of the Solid and Hazardous Waste Management Bureau of DHES. RCRA is the hazardous waste management program; UST is the underground storage tank program; and CERCLA is state participation with the federal Superfund program. None of these programs addresses the "non-federal" (non-Superfund) abandoned hazardous waste sites that are covered by HB 718.

2. The Renewable Resource Development Program is now funded by an allocation from the coal tax, and receives no RIT funds. SB 373 would add an 8% allocation of RIT interest funds to this program.

3. With the amendments proposed by Rep. Harper, HB 718 no longer addresses the emergency account issue. As a result, the allocations in SB 373 would apply.

STANDING COMMITTEE REPORT

March 23, 19 87

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 718

THIRD reading copy (BLUE color)

REALLOCATING ENVIRONMENTAL CONTINGENCY ACCT. TO ENV. QUALITY PROTECTION FUND

HARPER (BCK)

Respectfully report as follows: That HOUSE BILL No. 718
BE AMENDED AS FOLLOWS:

1. Title, line 4.
Strike: "REALLOCATING"
Insert: "ALLOCATING"

2. Title, line 5.
Strike: "ENVIRONMENTAL CONTINGENCY ACCOUNT"
Insert: "INTEREST INCOME OF THE RESOURCE INDEMNITY TRUST FUND"

3. Title, line 8.
Strike: "75-1-1101, 75-1-1102"
Insert: "15-38-202"

4. Page 1, line 12, through line 8 on page 4.
Strike: sections 1 and 2 in their entirety
Insert: "Section 1. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All moneys paid into the resource indemnity trust fund shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund shall annually be added thereto until it has reached the sum of $10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches $100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legislature and expended, provided that the balance in the fund may never be less than $100 million.

(2) Beginning in fiscal year 1982, provided the amount in the resource indemnity trust fund is greater than $10 million, 30% of the interest income of the resource indemnity trust fund must be allocated to the water development state special revenue account created by 85-1-604.

XXXXXXXXX
DO PASS

XXXXXXXXX
DO NOT PASS

CONTINUED

Chairman.

(3) Beginning in fiscal year 1986, 6% of the interest income of the resource indemnity trust fund must be allocated to the department of health and environmental sciences to be used to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in accordance with Title 75, chapter 10, part 6. The allocation in this subsection must be appropriated for each full biennium as necessary to obtain matching federal funds for the biennium.

(4) Beginning in fiscal year 1990, 4% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund, provided for in 75-10-704.""

Renumber: subsequent sections

5. Page 4, line 16.
Following: "may"
Insert: "only"

6. Page 4, line 19 through line 2 on page 5.
Strike: "as" on page 4, line 19 through "conduct" on line 2, page 5
Insert: ". Fund uses must include the conduct of the hazardous waste site remedial action program, which is"

7. Page 5, line 3.
Strike: "(i)"
Insert: "(a)"

8. Page 5, line 4.
Strike: "(ii)"
Insert: "(b)"

9. Page 5, line 13.
Strike: "(2)(b)"
Insert: "(2)"

10. Page 6.
Following: line 3
Insert: "interest income of the"

11. Page 6, line 4.
Strike: "interest account"
Insert: "fund"

12. Page 6, line 5.
Strike: "75-1-1101"
Insert: "15-33-202"

13. Page 6, line 10.
Following: "~~75-1-1101.~~"
Insert: "(5) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101."

CONTINUED

14. Page 6.
Following: line 6
Insert: " NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 373, including the section of that bill amending 15-38-202, is passed and approved, section 12 of Senate Bill No. 373 must read:

"NEW SECTION. Section 12. Coordination instruction. ~~If House Bill No. 777, including the section of that bill amending 15-38-202, is passed and approved:~~

~~(1) the bracketed material in section 12(2)(d) of this act allocating funds to the reclamation and development grants account must read "50%"; and~~

~~(2) the bracketed material in section 6 is void.~~

(1) If House Bill No. 777, including the section of that bill amendin 15-38-202, is passed and approved, and if House Bill No. 718, including the section of that bill amending 15-38-202, is passed and approved, the bracketed material in section 12 must read "46%".

(2) If House Bill No. 777, including the section of that bill amending 15-38-202, is passed and approved, and if House Bill No. 718, including the section amending 15-38-202, is not passed and approved, the bracketed material in section 12 must read "50%".

(3) If House Bill No. 777, including the section amending 15-38-2 is not passed and approved, and if House Bill No. 718, including the section amending 15-38-202, is passed and approved, the bracketed material in section 12 must read "52%"."

AND AS AMENDED
BE CONCURRED IN

SENATOR THOMAS F. KEATING, Chairman